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4 MELVIN CHARLES ZIMMONS,  
5 Plaintiff,  
6 v.  
7 REGISTERED NURSE LESLIE, et al.,  
8 Defendants.

9 Case No. [20-cv-00859-YGR](#) (PR)

10  
11 **ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

12 Plaintiff has filed a motion for appointment of counsel to represent him in this action.  
13 There is no constitutional right to counsel in a civil case unless an indigent litigant may lose his  
14 physical liberty if he loses the litigation. *See Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18, 25  
15 (1981); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (no constitutional right to counsel  
16 in § 1983 action), *withdrawn in part on other grounds on reh'g en banc*, 154 F.3d 952 (9th Cir.  
17 1998) (en banc). The court may ask counsel to represent an indigent litigant under 28 U.S.C.  
18 § 1915 only in “exceptional circumstances,” the determination of which requires an evaluation of  
19 both (1) the likelihood of success on the merits, and (2) the ability of the plaintiff to articulate his  
20 claims *pro se* in light of the complexity of the legal issues involved. *See id.* at 1525; *Terrell v.*  
21 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th  
22 Cir. 1986). Both of these factors must be viewed together before reaching a decision on a request  
23 for counsel under § 1915. *See id.*

24 The Court is unable to assess at this time whether exceptional circumstances exist which  
25 would warrant seeking volunteer counsel to accept a pro bono appointment. The proceedings are  
26 at an early stage and it is premature for the Court to determine Plaintiff's likelihood of success on  
27 the merits. Moreover, Plaintiff has been able to articulate his claims adequately *pro se* in light of  
28 the complexity of the issues involved. *See Agyeman v. Corrs. Corp. of Am.*, 390 F.3d 1101, 1103

1 (9th Cir. 2004). Accordingly, the request for appointment of counsel is DENIED without  
2 prejudice. This does not mean, however, that the Court will not consider appointment of counsel  
3 at a later juncture in the proceedings; that is, after Defendants have filed their dispositive motion  
4 such that the Court will be in a better position to consider the procedural and substantive matters at  
5 issue. Therefore, Plaintiff may file a renewed motion for the appointment of counsel after  
6 Defendants' dispositive motion has been filed. If the Court decides that appointment of counsel is  
7 warranted at that time, it will seek volunteer counsel to agree to represent Plaintiff pro bono.

8 This Order terminates Docket No. 16.

9 IT IS SO ORDERED.

10 Dated: July 30, 2021

  
11 JUDGE YVONNE GONZALEZ ROGERS  
United States District Judge

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United States District Court  
Northern District of California